

HOUSE BILL 553

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

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AN ACT

RELATING TO LOBBYIST REGULATION; REQUIRING CERTAIN REPORTS TO BE MADE BY LOBBYISTS' EMPLOYERS; EXTENDING THE RETENTION PERIOD FOR REPORTS; REQUIRING REPORTS TO BE POSTED ONLINE WITHIN A CERTAIN TIME FRAME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 2-11-6 NMSA 1978 (being Laws 1977, Chapter 261, Section 6, as amended) is amended to read:

"2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--
REPORTING PERIODS.--

A. Each lobbyist or lobbyist's employer who makes or incurs expenditures or political contributions for the benefit of or in opposition to a state legislator or candidate for the state legislature, a state public officer or candidate for state public office, a board or commission member or state

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1 employee who is involved in an official action affecting the
2 lobbyist's employer or in support of or in opposition to a
3 ballot issue or pending legislation or official action shall
4 file an expenditure report with the secretary of state on a
5 prescribed form or in an electronic format approved by the
6 secretary of state. The expenditure report shall include a
7 sworn statement that sets forth:

8 (1) the cumulative total of the expenditures
9 made or incurred, separated into categories that identify the
10 total separate amounts spent on:

11 (a) meals and beverages;

12 (b) other entertainment expenditures;

13 (c) gifts; and

14 (d) other expenditures;

15 (2) each political contribution made,
16 identified by amount, date and name of the candidate or ballot
17 issue supported or opposed; and

18 (3) the names, addresses and occupations of
19 other contributors and the amounts of their separate political
20 contributions if the lobbyist or lobbyist's employer delivers
21 directly or indirectly separate contributions from those
22 contributors in excess of five hundred dollars (\$500) in the
23 aggregate for each election to a candidate, a campaign
24 committee or anyone authorized by a candidate to receive funds
25 on the candidate's behalf.

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1 B. If the expenditure report is filed
2 electronically, the report shall be electronically
3 authenticated by the lobbyist or the lobbyist's employer using
4 an electronic signature as prescribed by the secretary of state
5 in conformance with the Electronic Authentication of Documents
6 Act and the Uniform Electronic Transactions Act. For the
7 purposes of the Lobbyist Regulation Act, a report that is
8 electronically authenticated in accordance with the provisions
9 of this subsection shall be deemed to have been subscribed and
10 sworn to by the lobbyist or the lobbyist's employer that is
11 required to file the report.

12 C. In identifying expenditures pursuant to the
13 provisions of Paragraph (1) of Subsection A of this section,
14 any individual expenditure that is more than the threshold
15 level established in the Internal Revenue Code of 1986, as
16 amended, that must be reported separately to claim a business
17 expense deduction, as published by the secretary of state,
18 shall be identified by amount, date, purpose, type of
19 expenditure and name of the person who received or was
20 benefited by the expenditure; provided, in the case of special
21 events, including parties, dinners, athletic events,
22 entertainment and other functions, to which all members of the
23 legislature, to which all members of either house or any
24 legislative committee or to which all members of a board or
25 commission are invited, expenses need not be allocated to each

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1 individual who attended, but the date, location, name of the
2 body invited and total expenses incurred shall be reported.

3 D. The reports required pursuant to the provisions
4 of the Lobbyist Regulation Act shall be filed:

5 (1) by January 15 for all expenditures and
6 political contributions made or incurred during the preceding
7 year and not previously reported;

8 (2) within forty-eight hours for each separate
9 expenditure made or incurred during a legislative session that
10 was for five hundred dollars (\$500) or more; and

11 (3) by May 1 for all expenditures and
12 political contributions made or incurred through April 25 of
13 the current year and not previously reported.

14 E. Except as may be required by Section 2-11-6.1
15 NMSA 1978, a lobbyist's personal living expenses and the
16 expenses incidental to establishing and maintaining an office
17 in connection with lobbying activities or compensation paid to
18 a lobbyist by a lobbyist's employer need not be reported.

19 F. A lobbyist or lobbyist's employer shall obtain
20 and preserve all records, accounts, bills, receipts, books,
21 papers and documents necessary to substantiate the financial
22 statements required to be made under the Lobbyist Regulation
23 Act for a period of two years from the date of filing of the
24 report containing such items. When the lobbyist is required
25 under the terms of the lobbyist's employment to turn over any

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1 such records to the lobbyist's employer, responsibility for the
2 preservation of them as required by this section and the filing
3 of reports required by this section shall rest with the
4 employer. Such records shall be made available to the
5 secretary of state or attorney general upon written request.

6 G. ~~[Any]~~ A lobbyist's employer shall comply with
7 the provisions of Section 2-11-6.1 NMSA 1978 and a lobbyist's
8 employer who also engages in lobbying shall also comply with
9 the provisions of [the Lobbyist Regulation Act] this section.

10 H. An organization of two or more persons,
11 including an individual who ~~[holds himself out]~~ makes any
12 representation as being an organization, that within one
13 calendar year expends funds in excess of two thousand five
14 hundred dollars (\$2,500) not otherwise reported under the
15 Lobbyist Regulation Act to conduct an advertising campaign for
16 the purpose of lobbying shall register with the secretary of
17 state within forty-eight hours after expending two thousand
18 five hundred dollars (\$2,500). Such registration shall
19 indicate the name of the organization and the names, addresses
20 and occupations of any of its principals, organizers or
21 officers and shall include the name of any lobbyist or
22 lobbyist's employer who is a member of the organization.
23 Within fifteen days after a legislative session, the
24 organization shall report the contributions, pledges to
25 contribute, expenditures and commitments to expend for the

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1 advertising campaign for the purpose of lobbying, including the
2 names, addresses and occupations of the contributors, to the
3 secretary of state on a prescribed form."

4 Section 2. A new section of the Lobbyist Regulation Act,
5 Section 2-11-6.1 NMSA 1978, is enacted to read:

6 "2-11-6.1. [NEW MATERIAL] ESTIMATED LOBBYING EXPENSE
7 REPORTS TO BE FILED BY LOBBYISTS' EMPLOYERS.--

8 A. No later than January 15 of each year, a
9 lobbyist's employer who incurs lobbying expenses shall file an
10 estimated lobbying expense report with the secretary of state
11 on a prescribed form or in an electronic format approved by the
12 secretary of state. The estimated lobbying expense report
13 shall include:

14 (1) a sworn statement that sets forth the
15 total estimated lobbying expenses that will be incurred through
16 April 25 of the current year; and

17 (2) a sworn statement setting forth the amount
18 of total lobbying expenses actually incurred from April 25
19 through December 31 of the preceding year, provided that no
20 statement is required pursuant to this paragraph unless:

21 (a) the total lobbying expenses actually
22 incurred from April 25 through December 31 of the preceding
23 year differ by more than ten percent from the amount of
24 lobbying expenses estimated for that period; or

25 (b) lobbying expenses were actually

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1 incurred from April 25 through December 31 of the preceding
2 year and no report was filed estimating lobbying expenses for
3 that period.

4 B. No later than May 1 of each year, a lobbyist's
5 employer who incurs lobbying expenses shall file an estimated
6 lobbying expense report with the secretary of state on a
7 prescribed form or in an electronic format approved by the
8 secretary of state. The estimated lobbying expense report
9 shall include:

10 (1) a sworn statement that sets forth the
11 total estimated lobbying expenses that will be incurred from
12 April 25 through December 31 of the current year; and

13 (2) a sworn statement setting forth the amount
14 of total lobbying expenses actually incurred through April 25
15 of the current year, provided that no statement is required
16 pursuant to this paragraph unless:

17 (a) the total lobbying expenses actually
18 incurred through April 25 of the current year differ by more
19 than ten percent from the amount of lobbying expenses estimated
20 for that period; or

21 (b) lobbying expenses were actually
22 incurred through April 25 of the current year and no report was
23 filed estimating lobbying expenses for that period.

24 C. After the initial employment or retention of a
25 lobbyist and before the lobbyist engages in lobbying:

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1 (1) the lobbyist's employer shall amend the
2 amount of total estimated lobbying expenses stated in any
3 report filed pursuant to Subsection A or B of this section for
4 the period in which the lobbyist is initially employed or
5 retained; or

6 (2) if the lobbyist's employer has not filed a
7 report for the period pursuant to Subsection A or B of this
8 section, the lobbyist's employer shall file an initial report
9 for the remainder of the reporting period in which the lobbyist
10 is initially employed or retained.

11 D. If the estimated lobbying expense report is
12 filed electronically, the report shall be electronically
13 authenticated by the lobbyist's employer using an electronic
14 signature as prescribed by the secretary of state in
15 conformance with the Electronic Authentication of Documents Act
16 and the Uniform Electronic Transactions Act. For the purposes
17 of the Lobbyist Regulation Act, a report that is electronically
18 authenticated in accordance with the provisions of this
19 subsection shall be deemed to have been subscribed and sworn to
20 by the lobbyist's employer that is required to file the report.

21 E. As used in this section, "lobbying expenses"
22 means an aggregate total of:

23 (1) expenditures paid by a lobbyist that are
24 reimbursed by the lobbyist's employer;

25 (2) the political contributions made by a

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1 lobbyist that are reimbursed by the lobbyist's employer;

2 (3) other expenses incurred by a lobbyist that
3 are reimbursed by the lobbyist's employer, including living
4 expenses, expenses for maintaining an office and other expenses
5 incidental to lobbying;

6 (4) all compensation paid to a lobbyist for
7 lobbying;

8 (5) if a lobbyist is an employee of the
9 lobbyist's employer, the salary paid to the lobbyist for the
10 time that the lobbyist is engaged in lobbying; and

11 (6) any other lobbying expenditures made by
12 the lobbyist's employer and not included in Paragraphs (1)
13 through (5) of this subsection."

14 Section 3. Section 2-11-7 NMSA 1978 (being Laws 1977,
15 Chapter 261, Section 7, as amended) is amended to read:

16 "2-11-7. REGISTRATION AND EXPENDITURE STATEMENT--LOBBYING
17 EXPENSE REPORT--PRESERVATION AS PUBLIC RECORD--ONLINE REPORTS
18 REQUIRED.--

19 A. Each registration and expenditure statement and
20 each lobbying expense report as required by the Lobbyist
21 Regulation Act shall be preserved by the secretary of state for
22 a period of [~~two~~] ten years from the date of filing as a public
23 record, open to public inspection at any reasonable time.
24 Unless an action or prosecution is pending that requires
25 preserving the statement or report, it may be destroyed [~~two~~]

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1 ten years after the date of filing.

2 B. Each registration and expenditure statement and
3 each lobbying expense report shall be posted on the secretary
4 of state's web site within forty-eight hours of receipt, except
5 that each statement and report received during a legislative
6 session shall be posted within twenty-four hours of receipt."

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